



CALIFORNIA REINVESTMENT COALITION

January 22, 2018

Jan Owen, Commissioner
Department of Business Oversight
1515 K Street, Suite 200
Sacramento, CA 95814-4052
Via email: regulations@dbo.ca.gov

Re: *Small Business Disclosures, FILE NO: PRO 01-18*

Dear Commissioner Owen:

The California Reinvestment Coalition respectfully submits these comments to the California Department of Business Oversight (DBO) as it works to implement SB 1235.

The California Reinvestment Coalition builds an inclusive and fair economy that meets the needs of communities of color and low-income communities by ensuring that banks and other corporations invest and conduct business in our communities in a just and equitable manner.

CRC and our member organizations were pleased to support SB 1235, which promises to bring transparency to the small business lending marketplace. In our 2017 survey of California nonprofits serving small businesses, most respondents did not believe small business clients benefited from the Merchant Cash Advance loans they took out, and 95% of respondents reported that the Department of Business Oversight should increase regulation of nonbank, fintech lenders, including Merchant Cash Advance lenders.¹

Our main recommendation to DBO now is to require APR disclosures for the benefit of small business loan seekers and not permit the use of alternative or optional measures which do not fully account for the true costs of credit or allow borrowers to easily compare products against one another. We support the recommendation of the Woodstock Institute that the APR calculation be very inclusive of fees as in the case of the Military Lending Act (MLA) which establishes a 36-percent Annual Percentage Rate (APR) cap on loans made to active duty members of the military, their spouses, and their dependents. We share the concern that lenders will shift their fees to the various categories of fees that are not included in the APR calculation under Regulation Z of the Truth In Lending Act (TILA). To prevent such evasion, the MLA established an annualized rate that includes more types of fees than are included under TILA.

¹ California Reinvestment Coalition, "Displacement, Discrimination and Determination: Small Business Owners Struggle to Access Affordable Credit," September 2017, available at: <http://calreinvest.org/wp-content/uploads/2018/08/CRC20Small20Business20Report.pdf>



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The additional types of fees included in the APR under the MLA are described in the OCC Comptroller's Handbook, Military Lending Act (page 8).²

In order to bring greater transparency to the industry and to enable small business owners to make informed business decisions as to credit, the annualized rate disclosed under SB 1235 should reflect the included charges under Regulation Z of TILA and the additional included charges under the MLA. We urge DBO to be clear and directive in this regard so that lenders understand exactly what is required of them, so that DBO can clearly determine whether lenders are complying with the statutory scheme, and so that small business borrowers can make apples to apples comparisons of loan products offered by lenders that are using the same assumptions and calculations when providing these disclosures.

Thank you for your efforts to enable small business owners to make informed decisions about the credit they seek. These efforts will facilitate the creation and expansion of small businesses in California, the hiring of additional workers in California, and the ability of small businesses to meet local community and market needs in our state.

If you have any questions about this letter, or wish to discuss our position further, please feel free to contact me at (415) 864-3980.

Very truly yours,

Kevin Stein
Deputy Director

² See Woodstock Institute comment letter, including footnote 3 (citing OCC, Comptroller's Handbook, Military Lending Act (May 2018). <https://www.occ.gov/publications/publications-by-type/comptrollers-handbook/military-lending-act/pub-ch-mla.pdf>).